1987 516-D GA 1/3: RCED-86-30

BY THE U.S. GENERAL ACCOUNTING OFFICE

Report To The Chairman, Committee On Merchant Marine And Fisheries House Of Representatives

COMPLETED
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Outer Continental Shelf Lease Sale 82--Sale Preparation And Subsequent Cancellation

The Department of the Interior cancelled Outer Continental Shelf Lease Sale 82 in September 1984 when no industry bids were received. The companies that GAO contacted said that the main reason they did not bid was because of the poor prospects for oil and gas in the North Atlantic. Other reasons included tract deletions and deferrals, lack of available bidding partners, and a high minimum bid price.

Although Interior originally had planned to offer about 25 million acres, only 6.3 million acres remained available for lease on the sale date. Acreage was deleted from the sale because of a congressional leasing moratorium to protect fishery resources, other resource or use conflicts, state concerns, and a pending decision by the International Court of Justice regarding a border dispute with Canada. These deletions included areas of both high resource potential and where industry had expressed interest.

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GAO/RCED-86-30
OCTOBER 15, 1985

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WASHINGTON, D.C. 20548

RESOURCES, COMMUNITY
AND ECONOMIC DEVELOPMENT
DIVISION

B-197313

The Honorable Walter B. Jones
Chairman, Committee on Merchant
Marine and Fisheries
House of Representatives

Dear Mr. Chairman:

The Department of the Interior is responsible for conducting oil and natural gas lease sales on the Outer Continental Shelf (OCS). The presale activities leading up to a sale are generally conducted over about a 32-month period during which time Interior solicits state and public comments, determines industry interest in the sale area, and conducts environmental analyses. A recent OCS lease sale--lease sale number 82 (Sale 82)--was cancelled in September 1984 when no industry bids were received. In addition, Massachusetts and nine organizations filed suits to stop the sale, alleging inadequate environmental analyses of the sale area and failure to properly balance environmental concerns and the well-being of Massachusetts' citizens with the pursuit of oil and gas leasing.

This report responds to a letter from the former Chairman of the Subcommittee on Oceanography, House Committee on Merchant Marine and Fisheries, dated September 28, 1984, which raised questions about Sale 82. Through agreement with Committee and Subcommittee offices, this report is being addressed to the full Committee. Basically, these questions related to why companies would express interest in a sale area, qualify as bidders, then not bid on tracts offered, and why Interior would offer to lease certain tracts that Massachusetts believed were environmentally sensitive. The Subcommittee also raised questions regarding the costs incurred in holding the sale and the implications of this experience for Interior's area-wide lease program.

As agreed with your office, this report addresses how Sale 82 was conducted, if the sale adhered to prescribed leasing procedures, and why industry did not bid. It also discusses why 149 tracts that Massachusetts requested be deleted from the sale were offered for lease. It was agreed with your office that we would not pursue the issue of Sale 82 costs. Presenting such cost

estimates could be misleading because expenditures for such items as environmental studies benefit multiple sales. Further, Interior does not maintain expenditures in such a way that they can be attributed to specific sales. Our discussions with oil companies did allow us to make some limited observations about the implications of not receiving bids in Sale 82. Appendix III contains a detailed discussion of our objectives, scope, and methodology.

OVERVIEW

In August 1984 Interior separated Sale 82 into two parts because of a boundary dispute with Canada. In September 1984 Interior cancelled Part I of the sale because no industry bids were received. Part II was cancelled in December 1984 because of a lack of industry interest after the area with the most promising geological potential had been awarded to Canada. Although Interior had planned to offer about 25 million acres, 6.3 million acres were offered for lease in Part I of the sale.

A total of 16 companies qualified, that is, submitted the appropriate certifications and other required information to bid in Part I of Sale 82, in contrast to 43 companies that qualified to bid in the one previous North Atlantic sale, held in December 1979. We contacted five companies that Interior's Minerals Management Service (MMS) identified as having nominated tracts in response to the Call for Information (see app. I) or being active participants in determining industry interest in Sale 82. These companies told us that the main reason that they did not bid was because of the poor geological prospects for oil and gas in the North Atlantic. In addition, we noted that a number of tracts that industry had indicated high levels of interest in were deleted during the conduct of presale activities while others were awarded to Canada by the International Court of Justice in the boundary dispute settlement. Three companies also said Interior's minimum bid price was too high for a risky deepwater area.[1] All five companies told us that state environmental concerns and the threat of litigation, in general, did not play a major role in why they did not bid.

We found that, in accordance with the 1978 amendments to the OCS Lands Act of 1953, Interior considered the possible impacts of oil and gas development on the environment. Based on available scientific studies and other information, Interior concluded that, in general, the environmental risks were minimal and could be mitigated through certain lease stipulations. Although Interior deleted 293 tracts in water depths of 400 meters or less, it retained 149 tracts with high industry interest, which Massachusetts had requested be deleted from the lease sale.

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[1]Interior had increased the minimum bid price from $25 per acre to $150 per acre (or about $850,000 per tract) for all OCS lease sales starting in October 1982.

BACKGROUND

The 1953 OCS Lands Act (Public Law 83-212) and its amendments of 1978 (Public Law 95-372) establish the policies for managing the OCS oil and gas leasing program. The 1978 amendments encourage expedited exploration of the OCS in order to achieve national economic and energy policy goals, including reducing United States dependence on foreign oil. The amendments also recognize the importance of the environment and require that OCS oil and gas resources be developed consistent with protecting the human, marine, and coastal environments.

The 1978 amendments and the National Environmental Policy Act of 1969, provided for additional state, local, and public participation in the OCS leasing process. States, localities, and other groups now not only review and comment on environmental analyses but also on the size, timing, and location of proposed lease sales. The 1978 amendments require the Secretary of the Interior to accept recommendations made by the Governors of the affected states regarding proposed sales as long as they provide a reasonable balance between the national interest and the well-being of the citizens of the states.

The Minerals Management Service is responsible for the day-to-day management of the OCS and conducting oil and gas lease sales. In 1982 Interior implemented an "area-wide" program to lease OCS lands for oil and natural gas exploration and development. The area-wide program was a significant departure from the tract-selection program then in operation, which had made only a limited amount of offshore lands available for lease. The area-wide program increased the number and frequency of lease sales and included new presale planning procedures. Large areas--up to 50 million acres--were offered for lease, rather than the more limited number of tracts nominated by industry and offered under the prior tract-selection program. Thus, beginning with the first area-wide sale in 1983, industry was given the opportunity to bid on any tract in a planning area except tracts deleted for reasons such as defense or environmental conflicts. Sale 82 was the first area-wide sale in the North Atlantic.

SALE 82 ADHERED TO ESTABLISHED LEASE PROCEDURES

Interior's regulations prescribe the steps to be followed in conducting an OCS lease sale. In general, these regulations require that Interior's approved 5-year leasing schedule include the proposed sale and that the following sequence of events be followed before the lease sale: (1) Call for Information, (2) Area Identification, (3) Proposed Notice of Sale, and (4) Notice of Sale. Appendix I provides a more detailed discussion of the steps followed in conducting Sale 82.

Sale 82 was conducted in accordance with the procedures prescribed in Interior's regulations. The sale was included in the 5-year leasing schedule dated July 1982, covering the period 1982-87. A Call for Information was issued in November 1982; the area identified for an environmental impact statement was made in March 1983; a Proposed Notice of Sale was issued in May 1984; and a final Notice of Sale was published in August 1984.

The presale activities for Sale 82, beginning with the Call for Information (Nov. 1982) and culminating with the date of sale (Sept. 1984), spanned approximately 2 years. Interior solicited indications of industry interest twice during this period--once at the Call for Information when Interior asked companies to indicate which tracts in the North Atlantic Planning Area they were interested in, and again in February 1984 in response to a January 1984 policy change by the Secretary of the Interior to only offer for lease those tracts with genuine industry interest.[2] In keeping with this policy change, Interior in February 1984 met with five companies, four of which had expressed interest at the Call for Information. As figures II.4 and II.7 (see app. II) show, industry continued to express interest in Sale 82 through February 1984.

States also were given opportunities throughout the presale process to offer comments and raise concerns. In addition to formally soliciting comments and concerns, according to the Deputy Associate Director for Offshore Leasing, MMS maintained frequent telephone and correspondence contact with state officials and held several meetings during the conduct of the presale activities with these officials to discuss states' concerns.

MANY FACTORS CAUSED INDUSTRY NOT TO BID

Officials of the five oil companies we spoke with told us that the primary reason they did not bid in Sale 82 was because of the poor geological prospects for oil and gas in the North Atlantic (see app. II). According to the officials, the essential conditions for producing oil and gas did not appear to be present in the North Atlantic. In general, the companies said that this conclusion was based on geological and geophysical evaluations, which indicated a low probability of reservoirs to hold oil and

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[2]In remarks before the OCS Policy Committee in Washington, D.C., on January 12, 1984, Secretary of the Interior, William Clark, stated that better attempts would be made in future lease sales to identify state and public concerns earlier and focus on areas of genuine industry interest so that conflicts could be resolved early in the planning process. Based on receipt of this additional information, Interior would be able to decide earlier whether to delete or retain tracts in a sale offering based on potential energy value and industry interest compared with other concerns such as fishing or the environment.

gas, insufficient heat to generate oil or gas from rock structures, and the lack of proper source rocks for hydrocarbons. All five companies stated that previous unsuccessful drillings in either the Mid- or North Atlantic (or both) contributed to this conclusion. Prior to the September 1984 lease sale date, eight dry holes had been drilled in the North Atlantic and 31 wells had been drilled in the Mid-Atlantic--none with commercially producible quantities of oil or gas. Three of the five companies also stated that the potential added costs of oil and gas production in deep water discouraged companies from bidding on Sale 82 tracts.

The area initially considered for leasing contained about 60 million acres. However, based on geology reports, expressed industry interest, and initial state concerns, the area identified for lease offering was reduced to about 25 million acres. We noted that during the conduct of the presale activities, about 14 of these 25 million acres were deleted from the sale and about 4.6 million acres were deferred until the planned second part of the sale because of a boundary dispute with Canada and to allow the Coast Guard to determine whether to permit leasing in a ship approach to New York harbor (about 200,000 acres). Most of the deletions (about 8 million acres) were associated with a congressional moratorium enacted as part of Interior's fiscal year 1984 appropriations act. The Congress removed these tracts to protect fishery resources on the Georges Bank. This moratorium eliminated from consideration a considerable number of tracts with high industry interest. (See fig. II.6, app. II.) An additional 1.5 million acres were deleted to avoid other resource or use conflicts, and 2.9 million acres were deleted in response to state concerns. Officials of three of the five companies said they considered tract deletions in deciding not to bid. One official stated that because of the deletions and deferrals his company believed the only remaining prospects were in deepwater areas which it felt were too risky.

In addition, three of the five companies we contacted told us that the minimum bid price of $150 per acre was too high for a high-risk area such as the North Atlantic. Two companies told us that the previous minimum bid price of $25 per acre would have been more appropriate. One company official told us that if the minimum bid price had been lower, his company would have seriously considered bidding if Part II had been held.

Although the five companies we contacted recognized that states had environmental concerns and were aware of litigation regarding previous North Atlantic sales, the companies told us that the poor geologic prospects mainly influenced their decisions. According to the five companies, environmental concerns and the potential threat of litigation to stop the sale, in general, did not play a major role in why they did not bid. None of the five companies we talked with believed that the environmental concerns raised by states regarding Sale 82 were well-founded.

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We also found that it would have been difficult for Interior to anticipate company bid intentions. For example, three of the five companies said that they do not begin detailed preparation for a lease sale until about 6 months before a sale date. According to these companies, geological and geophysical data may be gathered and analyzed before this, but final geologic and economic analyses leading up to bidding recommendations are done in the last 6 months. Three of the companies told us that their final bid decisions for Sale 82 were not made until just days or weeks before the sale.

The desire for bid secrecy and the timing of the sale may also have affected bidding decisions. For example, one company told us that in order to maintain the secrecy of company bidding strategy, it does not like to provide Interior with information on specific areas of interest. Two other companies said that the timing of a sale may determine industry bidding strategy. One of the companies noted that if it had bid heavily on sales early in the year, money available for bidding might be depleted for sales held later. Further, according to one company executive, a company's bid intentions are not well defined early in the lease process because, given the risk and expenditure involved, many chief executive officers want to wait until they have the maximum amount of information available before making a bid decision.

ENVIRONMENTAL CONCERNS WERE CONSIDERED IN OFFERING 149 TRACTS

We found that Interior considered the possible impacts of oil and gas exploration and development on the environment before deciding to retain certain tracts that Massachusetts had requested be deleted from the lease sale offering. Interior concluded that the potential for damage was minimal based on available scientific studies and could effectively be mitigated through certain lease restrictions.

Seven states (Maine, Massachusetts, Rhode Island, New Hampshire, New York, New Jersey, and Connecticut), in addition to several organizations, expressed concern about the risks of damage from offshore oil and gas activities to valuable North Atlantic fisheries. The final environmental impact statement for Sale 82 stated that the New England region (offshore Connecticut to Maine) is the third most important commercial U.S. fishery in terms of both volume and dollar value. In 1981 about 697 million pounds of fish with a value of approximately $356 million were caught in this region.

According to MMS' Deputy Associate Director for Offshore Leasing, Interior works with states to identify and resolve concerns and tries as much as possible to accommodate regional requests to delete or defer tracts. For example, in March 1983 and again in July 1983, Massachusetts requested that Interior consider deleting all tracts in water less than 200 meters deep

from the sale to protect fishery resources. However, in April 1984 and again in July 1984, Massachusetts requested that all tracts in waters 400 meters or less also be deleted to protect fishery resources. In general, the state believed that the potential impacts on fisheries from oil and gas drilling in waters 400 meters or less were too great to allow these tracts to be leased. As a result of Massachusetts' and other states' requests, Interior deleted 221 tracts with low industry interest in the northeast peak of the Georges Bank and 293 additional tracts in water depths of 400 meters or less, which are important for fishery resources. However, Interior did not delete all of the tracts that Massachusetts requested--149 tracts with high industry interest in water depths of 400 meters or less were retained in the sale.

We found that Interior considered environmental factors before deciding to keep the 149 tracts in the sale offering. Documents we reviewed indicated that Interior recognized the value of the fishery resources associated with these tracts but concluded that the potential for environmental damage was minimal and that proposed lease stipulations were adequate to protect these resources. Interior evaluated available scientific studies and biological evidence from previous wells drilled in the North Atlantic in reaching these conclusions. In addition, Interior noted that Massachusetts had previously approved drilling wells in water depths less than 400 meters. To further minimize the potential for damage Interior included an additional lease stipulation--requiring greater monitoring of drilling discharges near underwater canyons--to provide greater protection of the environment. Massachusetts officials told us that the state did not want oil drilling on these 149 tracts and was not willing to compromise on this position.

On September 5, 1984, the state of Massachusetts filed suit to stop Sale 82, in part because these 149 tracts were offered for lease. The suit stated that the Secretary of the Interior, in deciding to offer to lease these tracts, had not properly balanced the national interest with the well-being of the citizens of the state, as required by section 19 of the OCS Lands Act, as amended in 1978. In this connection, Massachusetts contended that environmental concerns were not adequately considered, and tracts were retained in the sale offering because of high industry interest.

The 1978 amendments to the OCS Lands Act task Interior with promoting the development of the Outer Continental Shelf and increasing the oil and gas that is produced from these areas, as well as protecting the environment. Maine, New Hampshire, and Massachusetts officials told us that they see an inherent conflict between these two objectives. Interior officials acknowledge that satisfying these often conflicting interests can be difficult. However, the Regional Director of the Atlantic Region said that the department believes the OCS can be developed for oil and gas production while at the same time protecting the environment.

IMPLICATIONS OF SALE 82 FOR FUTURE SALES

There can be no guarantee that future OCS sales, in this or other regions, will not experience conflict between states and the federal government over sale-related issues. The 1978 amendments were intended to give states a greater role in determining the size, timing, and location of lease sales. States exercised this role in Sale 82 by offering comments throughout the sale process.

Based on discussions with officials from five companies, it appears that industry did not bid because it did not see sufficient promise in the North Atlantic. Because industry is the ultimate decision-maker over whether or not to bid, it is possible that some future OCS sales may have few or even no bidders. This may be particularly true because of the nature of companies' bid decision processes. The companies we spoke with told us that they do not decide whether or not to bid until shortly before a sale date and also wish to keep specific bid intentions secret. Therefore, we believe it would be very difficult for Interior to predict the number of bidders, if any, that may participate in a sale.

Further, even if Interior were to determine low industry interest shortly before the sale date, cancelling the sale may not save much money. During the presale planning process and earlier, Interior spends funds for acquiring and analyzing geological and geophysical data and preparing the environmental impact statement. Companies also spend large amounts to acquire and analyze data in preparing for a leasing sale. Consequently, because costs are incurred throughout the 32-month leasing process, cancellation late in the process may result in only minor cost savings.

Appendix II contains a chronology of Sale 82 and a detailed discussion of the events and decisions made during the sale. It also contains a series of maps illustrating both industry interest in this sale and the various tract deletions made prior to the sale date. These maps show not only that a considerable number of tracts were deleted from the sale offering, but also that many of the deleted tracts were in areas where industry had indicated interest. In addition, the maps show that many high industry interest areas were awarded to Canada in the United States-Canada boundary dispute settlement.

AGENCY COMMENTS

Interior, in commenting on this report, provided technical corrections and updated information, finding the report to be generally accurate and objective. Interior did, however, take exception to the presentation of industry's reasons for not bidding in Sale 82. The report states that companies we contacted told us that the main reason they did not bid was because they did

not see sufficient geologic potential in the North Atlantic. Interior stated that this was an oversimplification since industry also cited tract deletions and deferrals and a high minimum bid level as reasons for not bidding. Interior also pointed out that companies considered bidding until just before the sale, which it believed indicated that industry saw geologic potential in the area. As a result, Interior requested that the report be modified to reflect this conclusion. The specific companies we contacted told us that the main reason they did not bid was because they did not see sufficient potential in the North Atlantic. Further, the fact that there were no industry bidders in Sale 82 suggests that any geologic potential industry saw was not sufficient for the risks involved. We did not change this characterization of the companies' views but did ensure that the other reasons for not bidding were clearly indicated.

Interior also provided its current steps in offshore leasing process. While we did not include this in our report because it did not reflect the procedures or practices that existed during the Sale 82 presale process, these process changes are noted in appendix II. Interior also provided a detailed chronology of its consultation with states and the Congress along with copies of the correspondence with the states for use in the report. We did not include this in our report because we were not citing problems with this consultative process and we believe the report gives adequate recognition of Interior's consultations with states and other parties. Comments relating to minor factual corrections and editorial changes were considered and incorporated where appropriate.

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As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the date of the report. At that time we will send copies to the Secretary of the Interior; the Acting Director, Office of Management and Budget; and other interested parties and make copies available to others upon request.

Sincerely yours,

J. Dexter Peach
Director

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ABBREVIATIONS

COST	Continental Offshore Stratigraphic Test
DEIS	Draft Environmental Impact Statement
EIS	Environmental Impact Statement
FEIS	Final Environmental Impact Statement
MMS	Minerals Management Service
NOS	Notice of Sale
OCS	Outer Continental Shelf
PNOS	Proposed Notice of Sale
SID	Secretarial Issue Document

OUTER CONTINENTAL SHELF

PRESALE PLANNING PROCESS

The Outer Continental Shelf (OCS) Lands Act, as amended, provides the authority under which the Secretary of the Interior supervises OCS mineral leasing and operations. Regulations implementing the act (30 CFR 256) establish the procedures to be followed in conducting OCS oil and gas lease sales. These procedures are illustrated in figure I.1. Starting about 20 months before the sale, information and comments about a proposed lease sale are solicited, environmental analyses are conducted, and the final sale area to be offered is defined. In addition, Interior gathers and analyzes data on the geologic potential of a proposed offering area and obtains indications of industry interest in the proposed area.

The following briefly describes the major prelease activities leading up to an actual lease sale. Some of the procedures have changed since Sale 82. The differences are minor and are noted in appendix II.

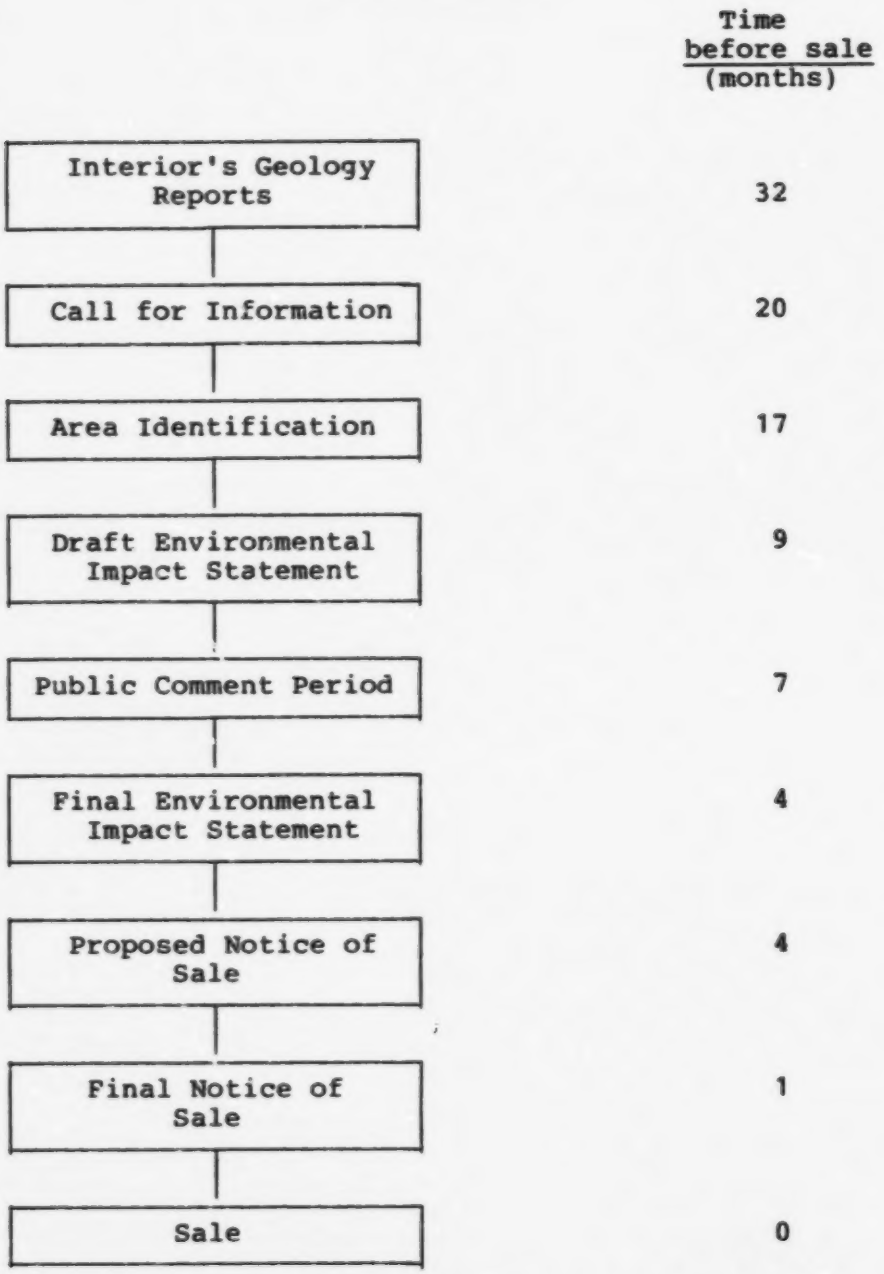
GEOLOGY REPORT

Approximately 12 months before the Call for Information and 32 months before the scheduled sale, Interior prepares a geology report covering the planning area for the proposed lease sale. It includes the location of potential recoverable oil and natural gas resources and a description of the sale area, including regional geologic hazards (i.e., a feature or condition that, if unmitigated, may seriously jeopardize offshore oil and gas exploration). Data sources used to prepare the report include previous wells drilled in the area, geological and geophysical data purchased from companies, and geological and geophysical studies done on nearby OCS regions.

APPENDIX I

Figure I.1

Area-wide Lease Sale Process



Source: Department of the Interior, The Bureau of Land Management, Final Supplement to the Final Environmental Statement, Proposed Five-Year OCS Oil and Gas Lease Schedule, January 1982-December 1986.

CALL FOR INFORMATION

The Call for Information is published in the Federal Register and requests potential bidders (oil and natural gas companies) to indicate and rank areas of leasing interest within a particular planning area. States and others also have the opportunity to comment on the proposed sale area or any other topics of concern, such as environmental effects or other conflicts that should be considered in planning the lease sale. A Call is issued for an entire planning area and indicates areas that Interior has identified from the geology report as having hydrocarbon potential. A Call does not commit Interior to hold a particular sale.

AREA IDENTIFICATION

The Area Identification formally identifies the part of the planning area on which the environmental impact statement (EIS) will be focused and that will be considered for leasing. After considering the area of hydrocarbon potential, comments on the Call for Information, and other relevant information, the Minerals Management Service (MMS) recommends to the Assistant Secretary of the Interior for Land and Minerals Management areas to be included in the EIS. Areas identified for EIS analysis may include areas without expressed interest by industry or the public. However, areas not subjected to the EIS analysis may not be included in the sale.

DRAFT ENVIRONMENTAL IMPACT STATEMENT

The National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) requires that an EIS be prepared for all major federal actions significantly affecting the quality of the human environment. Interior prepares an EIS for an entire planning area in which an initial lease sale is being considered, except for areas determined to be unavailable for oil and gas activities. For subsequent sales in the same planning area, Interior prepares an updated EIS covering the area to be considered for leasing. The draft EIS describes the existing environment, the proposed action and its alternatives, resource estimates, and probable environmental risks. Alternatives considered in the draft include delaying the offering, cancelling the offering, or deferring offering of certain tracts because of the potential adverse effects of developing them. In addition, such topics as available mitigating measures (such as lease stipulations), unavoidable adverse impacts, and cumulative effects are discussed. A 60-day public comment period is required following publication of the draft EIS.

FINAL ENVIRONMENTAL IMPACT STATEMENT

A final EIS is prepared once oral and written comments on the draft EIS are received. The final EIS incorporates new findings, substantive comments, and any additional information acquired

during the review of the draft EIS. The final statement is filed with the Environmental Protection Agency, distributed to other federal agencies and state and local governments, and also made available to the general public.

PROPOSED NOTICE OF SALE

The Proposed Notice of Sale (PNOS) informs the public of the proposed terms and conditions of the upcoming offshore lease sale. This notice includes: (1) a listing of tracts being considered for lease (or not available for lease), (2) information on the lease sale procedures and methods of bidding, and (3) proposed lease stipulations and conditions to mitigate the potential adverse effects of the lease action. The Assistant Secretary for Land and Minerals Management approves the PNOS based on the information in the final EIS and a Secretarial Issue Document. The latter presents and analyzes the issues and options available for a proposed lease sale.

The notice is sent to governors of affected states for their comments and recommendations on the size, timing, or location of the sale. It also invites any further comment that the states wish to make. The Secretary of the Interior is obligated to accept these recommendations, unless they do not provide for a reasonable balance between the national interest[1] and the well-being of the citizens of the states. A written explanation is required for the acceptance or rejection of a Governor's recommendation or for the adoption of an alternative means identified in consultation with the Governor to provide a reasonable balance.

NOTICE OF SALE

Upon approval by the Secretary of the Interior, the Director of MMS publishes the final Notice of Sale (NOS) in the Federal Register at least 30 days prior to a lease sale. The notice lists the tracts offered, the methods of bidding, lease stipulations, and all terms and conditions of the sale. The place and time at which sealed bids will be filed and opened are also specified.

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In July 1982 Interior streamlined the OCS lease sale process to both expedite leasing and allow broader areas to be considered for leasing. Basically, two changes were made to the presale planning process: (1) a Call for Information replaced a Call for Nomination and Comments and (2) an Area Identification replaced the Tentative Tract Selection. These two changes are designed to

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[1]The national interest, as defined in the 1978 amendments of the OCS Lands Act, includes obtaining oil and gas supplies consistent with protecting the environment.

allow entire planning areas to be considered for leasing and to reduce the time required for presale activities. Under the streamlined approach, the period for presale activities, beginning with the Call for Information, was reduced from about 40 months to 20 months.

The new procedures include requirements for state and public comments, as well as preparation of environmental analyses. Also included was a requirement that lease sales be contained in an approved 5-year oil and gas leasing schedule, as required by the 1978 amendments to the OCS Lands Act. The 5-year schedule identifies when and where lease sales will be held and is reviewed by the President, the Congress, and Governors of affected states. The 5-year schedule for the period 1982 through mid-1987 introduced the "area-wide" leasing concept in which entire planning areas are initially offered for lease.

CHRONOLOGY OF OCS LEASE SALE NUMBER 82

This appendix presents a chronology of the events and actions that occurred leading up to Sale 82, scheduled for September 1984. The presale activities occurred over about a 2-year period from November 1982 to September 1984. The headings to the left of the following text identify the lease sale steps required by Interior regulations (see app. I). The narrative to the right of the headings describes the actual events and actions of the sale. Included is a discussion of states' and other groups' concerns about the sale and decisions Interior reached regarding areas to be retained or deferred in the final offering. Maps throughout the chronology illustrate when and the extent to which tracts were deleted from the lease sale offering. The chronology also discusses some of the factors that caused five companies we contacted to lose interest in the sale; why industry bid strategy precludes MMS from accurately predicting bidder interest in offshore sales; and why Massachusetts brought legal action to stop the sale.

FIVE-YEAR LEASE PROGRAM (July 1982)

FIVE-YEAR LEASE SCHEDULE INTRODUCING "AREA-WIDE" CONCEPT INCLUDED SALE 82

The OCS Lands Act, as amended, and Interior regulations require that OCS lease sales be included in an approved 5-year oil and gas leasing schedule. Sale 82, the first area-wide sale scheduled for the North Atlantic, was included in the 5-year schedule issued in July 1982 covering the period 1982 through mid-1987. Sale 82 was scheduled to be held February 1984, 1 month after a sale scheduled for Southern California, and 1 month before a sale scheduled for the Navarin Basin off Alaska. Figure II.1 illustrates the location of Sale 82 in relation to the Atlantic seaboard. The area under consideration for Sale 82 initially included the entire North Atlantic Planning Area, consisting of about 60 million acres.

The 5-year schedule issued in July 1982 is significant because it introduced the area-wide leasing concept. This concept calls for: (1) accelerating the number of lease sales, (2) offering to lease more tracts in a planning area, and (3) emphasizing the leasing of high potential areas. Interior designed these revisions to speed up the inventorying of oil and gas resources and to promote earlier production if discoveries are made. Interior wanted to facilitate OCS exploration and development in order to reduce dependence on foreign oil and to promote

Figure II.1

LOCATION OF OUTER CONTINENTAL SHELF LEASE SALE 82 (SEPTEMBER 1984)

Prepared by: U.S. General Accounting Office.

exploration of frontier areas such as the North Atlantic.

Before Sale 82, Interior had scheduled two tract-selection sales in the North Atlantic Planning Area. Sale 42, held in December 1979, resulted in the lease of 63 tracts for $816 million. Sale 52 was cancelled in November 1983 when MMS concluded that lengthy legal procedures would be required before the sale to resolve lawsuits brought by Massachusetts and other parties. Interior incorporated the Sale 52 area into Sale 82.

GEOLOGY REPORT (early 1982)

GEOLOGY REPORT HELPS IDENTIFY AREAS OF HYDROCARBON POTENTIAL IN THE NORTH ATLANTIC

In 1982, in compliance with Interior's existing regulations, U.S. Geological Survey prepared a report updating the geology and hydrocarbon potential of the area being considered for leasing in Sale 82 (U.S.G.S. Open-File Report 81-1353). This report compiled data from recently drilled Continental Offshore Stratigraphic Test (C.O.S.T.)[1] wells, data from wells drilled by oil companies, and earlier seismic surveys. This report identified areas of hydrocarbon potential in the North Atlantic Planning Area which at the time stretched from North Carolina to Maine. The report suggested that the most prospective areas for hydrocarbons lay near the edge of the continental shelf and on the continental slope in water depths of less than 2,500 meters. Figure II.2 illustrates the U.S. continental margin, including the continental shelf and slope. The shelf generally terminates at 200 meters depth and the slope at 2,500 meters.

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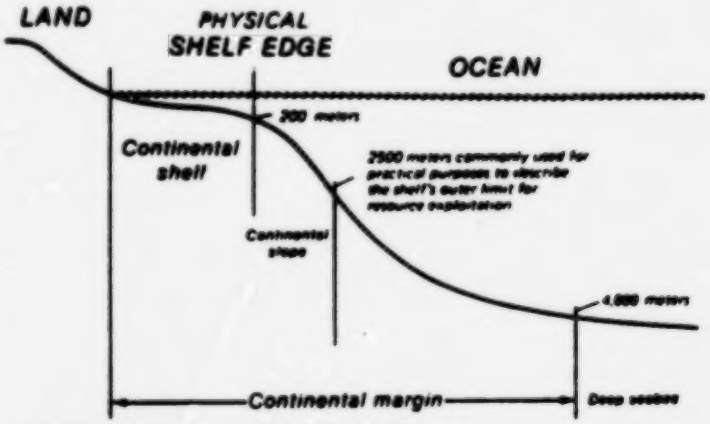
[1]C.O.S.T. wells are drilled prior to an area being offered for lease to gather information on the hydrocarbon potential of the area and are usually drilled by a consortium of companies because of the high cost.

FIGURE II.2
PROFILE OF THE CONTINENTAL MARGIN
(average water depths in meters)



SOURCE U.S. GEOLOGICAL SURVEY AS MODIFIED BY GAO

A map in the report indicated that areas of good potential for oil and natural gas generally lay in the vicinity of 200 meters water depth. The report cautioned, however, that because the North Atlantic is a frontier area where there has been minimal drilling, there was the possibility it contained no commercially recoverable oil or gas.

In September 1982 MMS determined that most of the North Atlantic Planning Area, except the Gulf of Maine, had areas with potential for hydrocarbon accumulation. Figure II.3 illustrates those areas within the proposed Sale 82 offering area that were considered to have geologic potential for oil and/or gas. These areas included most of the proposed offering area. Interior estimated that about 19 million of the 60 million acres of the planning area contained areas of geologic potential for oil and gas. Areas of unknown potential lay seaward of the 2,500 meter depth.

NORTH ATLANTIC WELLS DRILLED

(Nov. 1981-Sept. 1982)

Between November 1981 and September 1982, eight exploratory wells were completed on tracts awarded in North Atlantic Sale 42. The last two wells were completed in September 1982. None of these wells resulted in the discovery of commercially producible quantities of oil or gas. As a result, these wells were plugged and abandoned. The companies we contacted mentioned that the results of these drillings, along with poor results from Mid-Atlantic drillings, contributed to the oil industry's failure to bid on Sale 82.

CALL FOR INFORMATION (Nov. 1982)

CALL FOR INFORMATION INCLUDES ENTIRE NORTH ATLANTIC PLANNING AREA

On November 23, 1982, Interior issued the Sale 82 Call for Information. The Call invited potential bidders to identify (nominate) areas in which they might have an interest in leasing and interested parties (state and local governments, environmental groups, etc.) to comment on possible environmental effects and use conflicts in the Call area. The Call also requested comments about problems or conditions that might bear upon potential leasing and development of particular areas. Information received in response to the Call was to be used to identify proposed leasing areas and alternatives to be analyzed in the environmental impact statement, and to develop lease terms and conditions.

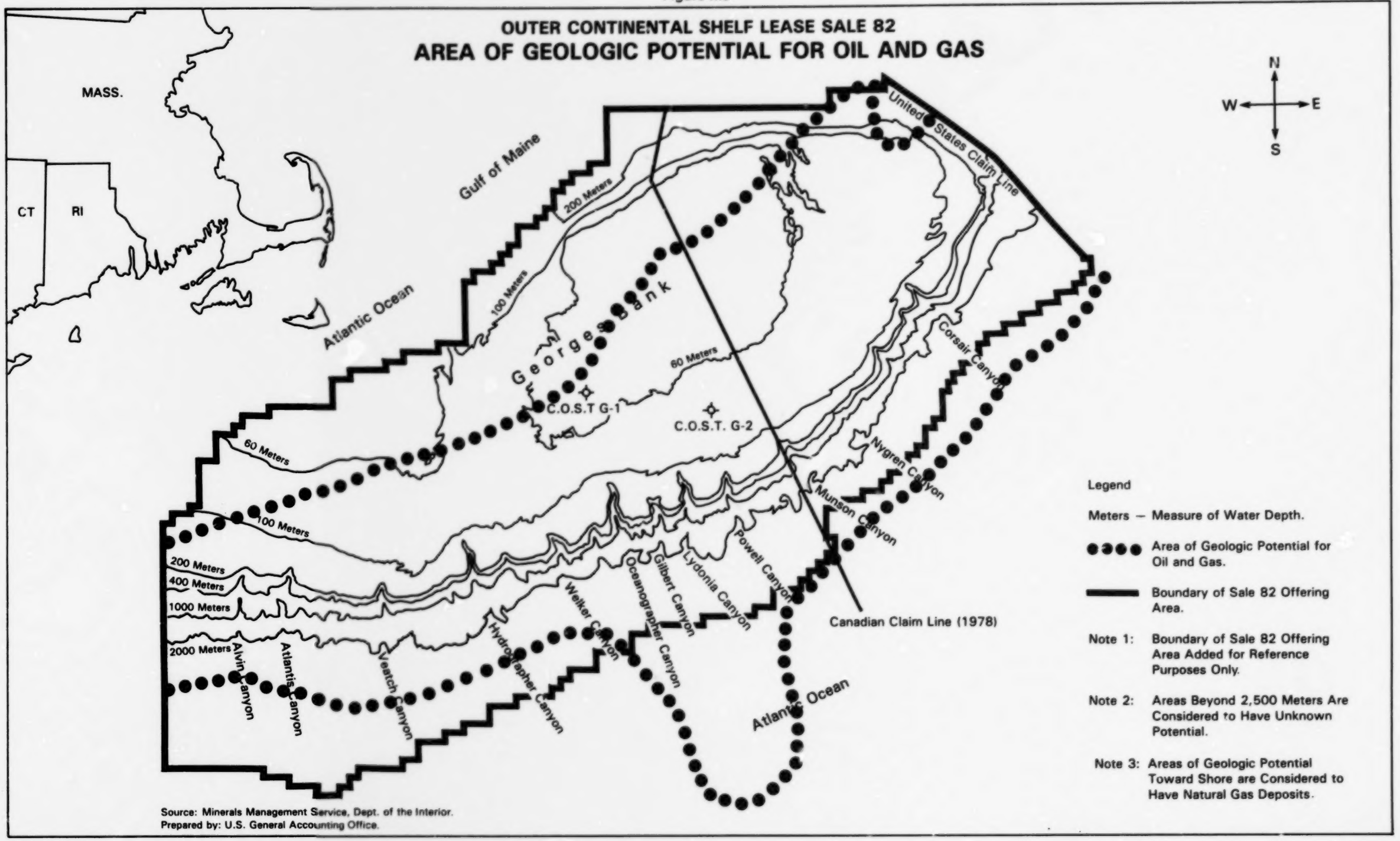
The Call area included the entire North Atlantic Planning Area, approximately 60 million acres. This area lays offshore Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York. Interior advised interested parties that the maritime boundary between the United States and Canada in the north eastern part of the planning area was pending before the International Court of Justice. Respondents to the Call included 7 states, 1 locality, 3 federal agencies, 8 companies, 11 public interest groups, and 9 individuals. Five companies also submitted indications (nominations) of areas that they might be interested in leasing.

PROPOSED OFFERING AREA CREATES CONCERNS ABOUT MARINE RESOURCES

(Dec. 1982-Mar. 1983)

In correspondence to MMS responding to the proposed offering area, states and public interest groups generally expressed concern about the potential impact that oil exploration and development could have on fishery resources. New Hampshire, Massachusetts, and Maine also did not believe it was justified to retain areas of low hydrocarbon potential in the lease offering. Therefore, these states requested that Interior delete from the sale area tracts in the Gulf of Maine and other offshore areas which contained high biologic resources but little or no hydrocarbon

Figure II.3



Source: Minerals Management Service, Dept. of the Interior.
Prepared by: U.S. General Accounting Office.

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potential. These and other states also requested that the following be deleted:

--tracts deleted in previous sales, because of unacceptable risks to marine resources and the coastal environment and to maintain a consistent policy in dealing with areas that were biologically sensitive or had use conflicts;

--tracts within 50 miles of the New England shore, to decrease chances that an oil spill would reach the shoreline; and

--tracts seaward of waters 2,000 meters deep, due to a lack of confidence in available deepwater drilling technology.

Maine and New Hampshire were also concerned about the inclusion of certain areas in the proposed sale area because Interior had not considered and analyzed much of this area in past EIS documents. Other respondents requested that sensitive areas, such as underwater canyons which provide a unique habitat for marine life, be deleted, and that tracts in water shallower than 60 meters be deleted because of the unique currents within that area which could hold oil spills long enough to pose a hazard to marine life. In general, respondents suggested that tracts of low hydrocarbon potential be deleted, mitigating measures such as lease stipulations be imposed, or special studies be undertaken to ensure that the environment was protected.

In February and March 1983 Maine, Massachusetts, and New Hampshire raised additional concerns. They recommended that the environmental impact statement include an analysis of fishery resources. They were concerned about tracts in the Great South Channel[2] of the Georges Bank, tracts in water shallower than 200 meters, and tracts in prime spawning grounds. Massachusetts requested that Interior consider deleting all tracts in waters less than 200 meters.

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[2]Area located in the north central portion of the proposed sale area identified as being a preferred area for whales and a spawning ground for several important fisheries.

INDUSTRY INTEREST COVERS MUCH OF INTERIOR'S AREA OF GEOLOGIC POTENTIAL

(Dec. 1982)

While states and public interest groups identified areas to be protected by deletion, stipulation, or study, five oil companies responded to the Call for Information by identifying 22.6 million acres (about 1/3 of the entire planning area) in which they were interested. Figure II.4 illustrates those areas identified by the five companies. Seventy-five percent of the tracts coincided with the area of geologic potential identified by Interior. Based on the areas nominated by the five companies, it was clear early in the presale process that the oil companies' greatest interests primarily focused on two areas: tracts located in the northeastern portion of the sale area up to the U.S./Canadian boundary, and tracts lying in waters of 400 meters or less in the western portion of the proposed sale area.

AREA IDENTIFICATION (Mar. 1983)

INTERIOR BEGINS DEFINING SIZE OF LEASE OFFERING AT AREA IDENTIFICATION STAGE

Figure II.5 illustrates the area Interior identified for review and analysis in the EIS. This area was considerably larger than earlier North Atlantic sales. The area identified for EIS analysis included about 25 million acres containing 4,366 tracts located 19 to 256 miles offshore. Water depths ranged from 16 meters to 3,000 meters. Interior estimated that the proposed offering area contained a conditional mean resource estimate of 210 million barrels of oil and 4.9 trillion cubic feet of gas. This means that these estimates are conditional upon the discovery of recoverable hydrocarbon resources in the proposed offering area.

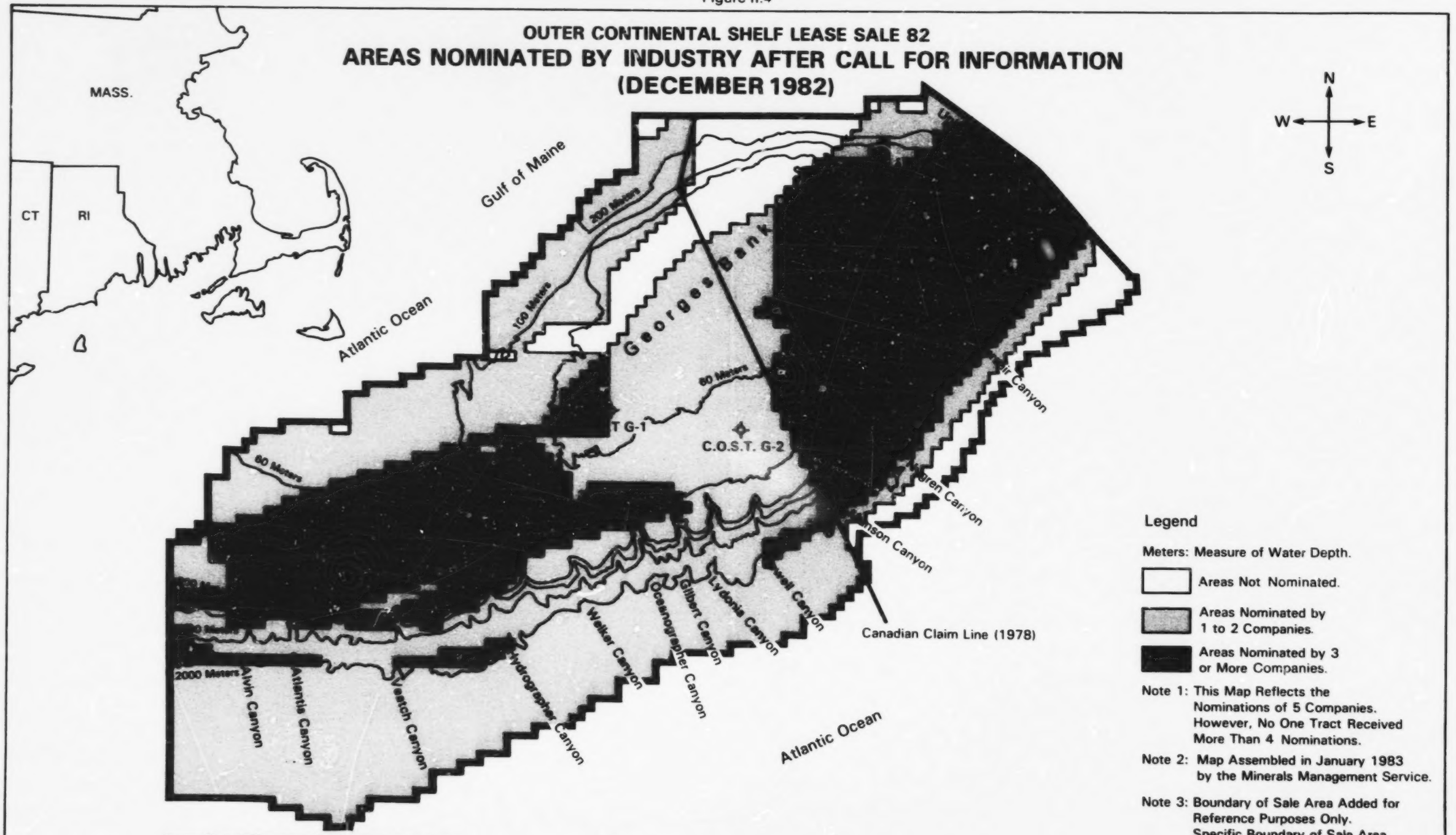
DRAFT ENVIRONMENTAL IMPACT STATEMENT (June 1983)

DRAFT EIS DEFINES SCOPE OF ISSUES, ALTERNATIVES, AND ENVIRONMENTAL EFFECTS OF PROPOSED SALE 82

Before issuing a final EIS, MMS developed and distributed a draft environmental impact statement (DEIS). This document discussed issues raised by concerned groups and outlined both the proposed action (leasing 4,366 tracts) and its alternatives (including measures such as lease stipulations to mitigate potential adverse environmental effects). After distributing the DEIS for comments, MMS scheduled hearings in July 1983 to solicit comments from federal agencies, state governments, the general public, and private companies.

Figure II.4

OUTER CONTINENTAL SHELF LEASE SALE 82
AREAS NOMINATED BY INDUSTRY AFTER CALL FOR INFORMATION
(DECEMBER 1982)



Legend

Meters: Measure of Water Depth.

Areas Not Nominated.

Areas Nominated by 1 to 2 Companies.

Areas Nominated by 3 or More Companies.

Note 1: This Map Reflects the Nominations of 5 Companies. However, No One Tract Received More Than 4 Nominations.

Note 2: Map Assembled in January 1983 by the Minerals Management Service.

Note 3: Boundary of Sale Area Added for Reference Purposes Only. Specific Boundary of Sale Area Had Not Been Determined at This Stage.

Source: Minerals Management Service, Dept. of the Interior.
Prepared by: U.S. General Accounting Office.

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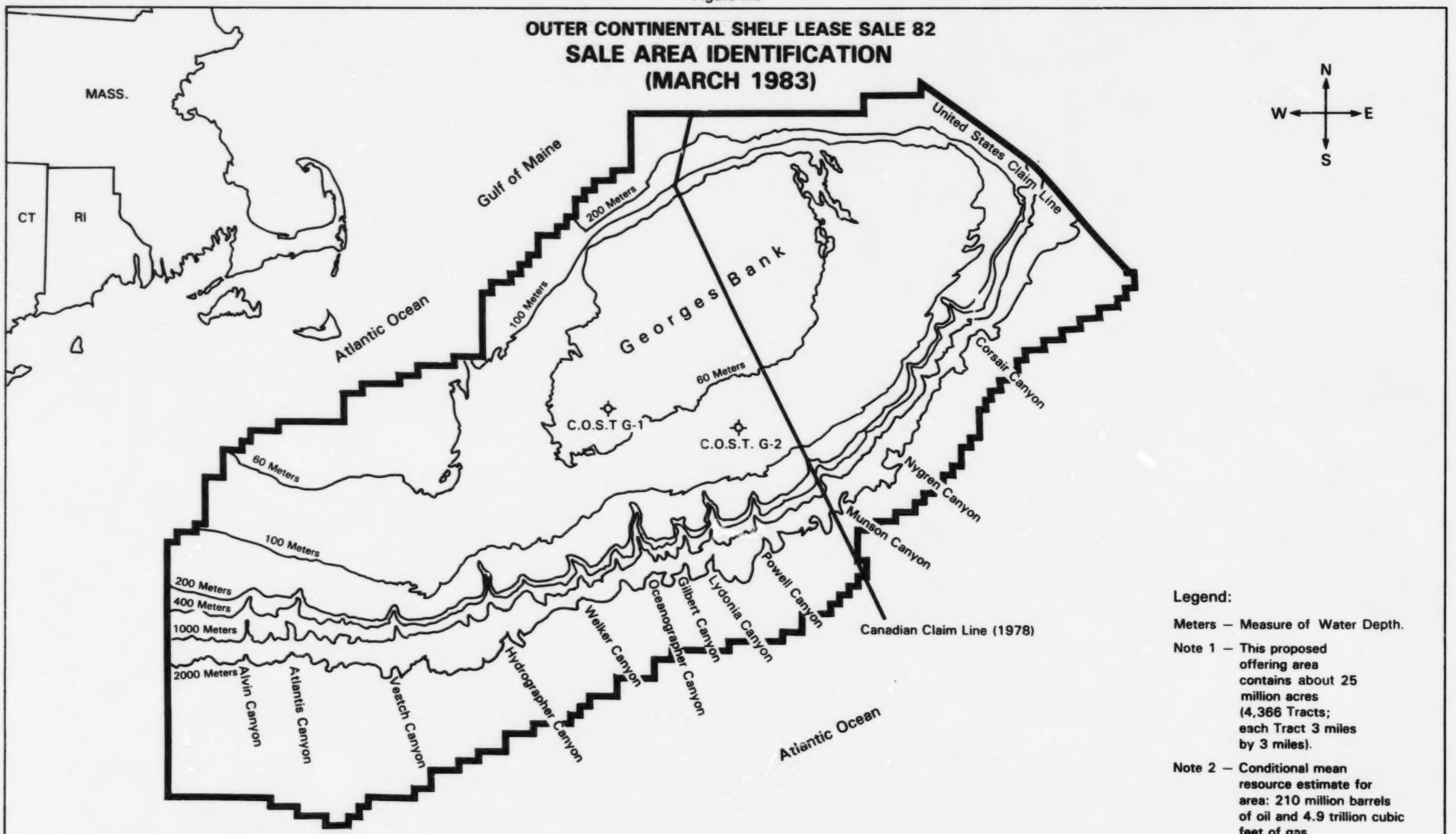
Figure II.5



Source: Minerals Management Service, Dept. of the Interior.
Prepared by: U.S. General Accounting Office.

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The DEIS for Sale 82 presented three alternatives to the proposed action of offering to lease all of the tracts included in the area identification. These included: (1) deleting tracts within 50 miles of shore, (2) deleting tracts in the canyon areas, and (3) deleting tracts lying in waters 60 meters or less. These were in addition to the alternatives of cancelling or delaying the sale. However, the DEIS concluded that potential adverse environmental impacts which might occur as a result of leasing all tracts, would be temporary, local, and minor.

The DEIS stated, however, that if a major oil spill (over 1,000 barrels) occurred, it was expected to have significant, yet temporary impacts on water quality and fishery resources. The severity of the impacts would depend on water and weather conditions at the time of the spill, but with an eventual recovery of the resources as a whole. Interior's DEIS estimated that one major oil spill could occur over a 30-year time period as a result of the proposed action. Continued transportation of imported oil by tanker through the Mid- and North Atlantic could result in about 22 major oil spills over the same time period. Each of the alternatives was expected to reduce the potential environmental impact from oil drilling.

PUBLIC COMMENT PERIOD (July - Aug. 1983)

STATES' RESPONSES TO DRAFT EIS REFLECT CONCERN FOR FISHERIES RESOURCES

Five states (Massachusetts, New Hampshire, Maine, Connecticut, and Rhode Island) in letters to MMS in response to the DEIS, indicated a concern that Interior had not adequately identified and considered sufficient alternatives to protect the fishery resources of the Georges Bank. These states raised what they believed were deficiencies in the DEIS. First, all five states believed Interior failed to include tract deletion alternatives which they believed should be considered. These included the Great South Channel, the northeast peak area, and the shelf/slope break areas which contained high-value fisheries and endangered species' habitats. Second, Maine, Massachusetts, and New Hampshire cited a need for improved estimates of fisheries resources which could be adversely affected by oil exploration and development.

Finally, Maine, Massachusetts, and New Jersey were concerned that Interior did not adequately

assess the potential environmental impact of oil and gas drilling over such a large area.

Massachusetts, Maine, and Rhode Island recommended that Interior recognize distinguishable subareas in the Georges Bank rather than one homogenous ecosystem. Maine argued that each subarea was sufficiently distinguishable on the basis of oceanographic, biological, and geological characteristics and should receive a separate analysis in the final EIS.

LAST FOUR MID-ATLANTIC WELLS DRILLED

(Aug. 1983 - Nov. 1984)

Between August 1983 and November 1984, the oil industry drilled the last four in a series of 32 wells in the Mid-Atlantic Planning Area. However, none of these wells had commercially producible finds of oil or gas. According to an oil company exploration manager, these last four unproductive wells or "dry holes" in the Mid-Atlantic area influenced industry's outlook on the proposed North Atlantic sale area and may have contributed to the outcome of Sale 82. These wells had been drilled along the Jurassic reef, which extends from the Mid-Atlantic up through the North Atlantic Planning Area. This geologic structure was thought to contain prospective finds of oil and gas. The exploration manager told us that this area was the oil companies' target for Sale 82.

CONGRESSIONAL MORATORIUM DEFERS ONE-THIRD OF OFFERING AREA

(Oct. 1983)

On October 1, 1983, the Congress, through a congressional resolution continuing appropriations for fiscal year 1984, withdrew about 1,380 full and 125 partial tracts, including tracts within waters shallower than 60 meters and underwater canyons to protect fishery resources. This constituted approximately one-third of the area that was planned to be offered. On November 4, 1983, Congress approved Interior's fiscal year 1984 appropriation act which continued the moratorium until October 1, 1984.

The yellow areas in figure II.6 represent the tracts deleted from the proposed sale by the congressional moratorium. The committee report accompanying the appropriations bill stated that the fisheries resources in the deferred area were

three times the value of oil and gas resources. Removal of this area reduced the resource estimates to 140 million barrels of oil and 3.1 trillion cubic feet of gas. This was the first in a series of tract deletions in areas where the five companies had expressed high or moderate interest.

FINAL ENVIRONMENTAL IMPACT STATEMENT (Nov. 1983)

FINAL EIS CONSIDERS ISSUES RELATING TO FISHERIES AND GEORGES BANK ECOSYSTEM

Interior's final EIS (FEIS) reflected its consideration of state recommendations to protect fisheries resources. The FEIS included seven additional alternatives for deleting tracts as well as using separate ecosystems in its analysis. The FEIS included alternatives for deleting critical fisheries areas, including underwater canyons, the Great South Channel, central and northeast peak areas, the shelf break zone, and tracts shallower than 60 meters. Interior did not, however, adopt Massachusetts' recommendation to delete all tracts shallower than 200 meters. Instead Interior considered selective deletions preferable to deleting such a broad area. Interior also did not include an alternative suggested by respondents to delete tracts in waters ranging in depth from 1,000 to over 2,000 meters, citing that the danger of mishaps did not increase in deeper waters and technology necessary for exploratory drilling in these water depths had been developed.

SECRETARIAL ISSUE DOCUMENT DISCUSSES BALANCING ORDERLY RESOURCE DEVELOPMENT WITH ENVIRONMENTAL PROTECTION

(Nov. 1983)

The Secretarial Issue Document (SID), issued concurrently with the FEIS, serves as a decision-making tool for the Assistant Secretary for Land and Minerals Management to select which tracts to offer for sale and under what terms and conditions. The document analyzes the issues and options for the proposed sale such as economic benefits, environmental risks, and states' views. It also discusses mitigating measures, tract deletions, and delay or cancellation of the sale.

The SID for Sale 82 addressed the social benefits and costs for the proposed alternatives. Benefits included savings that result from domestic production of oil and gas, increased national security due to reduced dependence on imports, and

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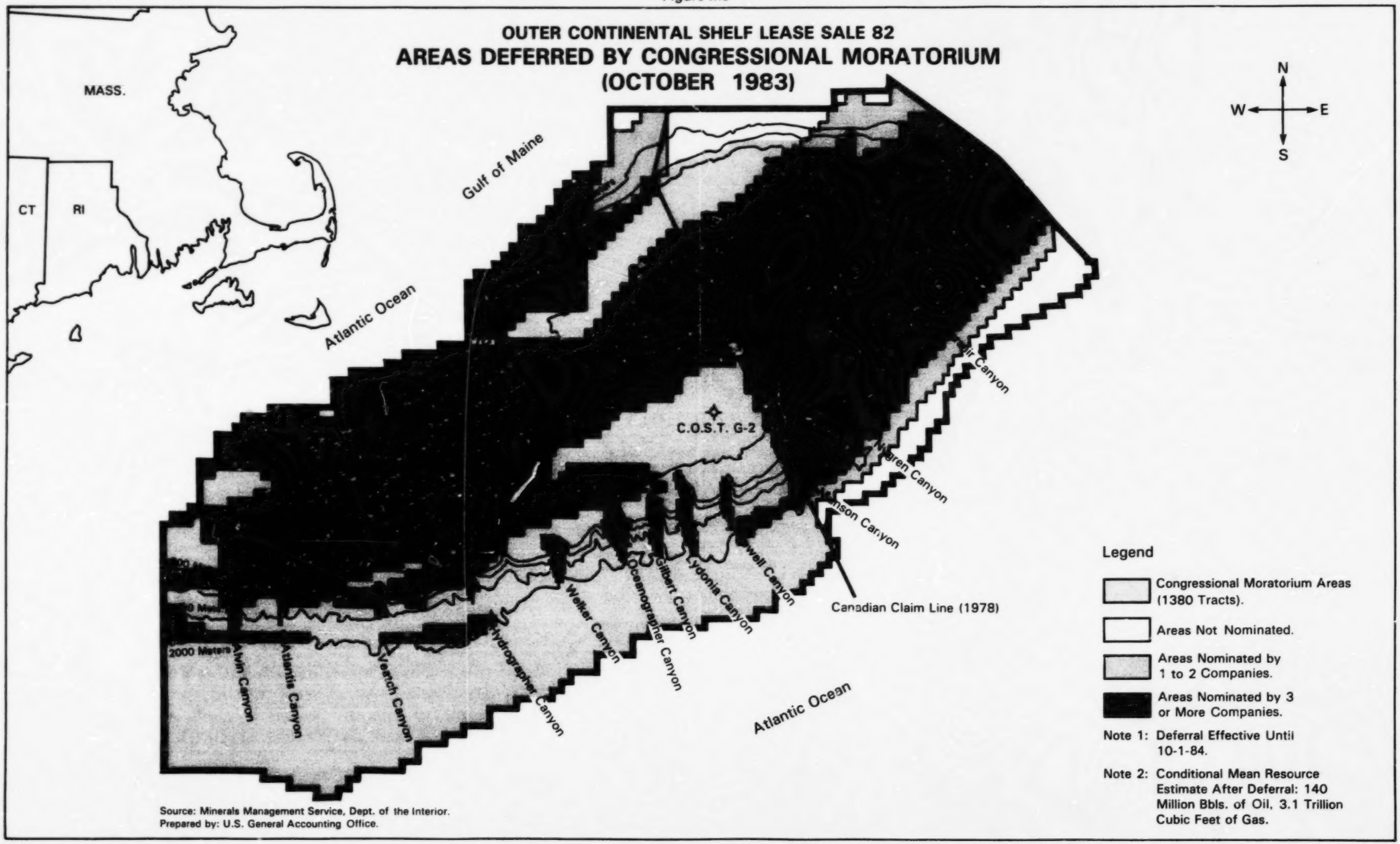
Figure II.6



Source: Minerals Management Service, Dept. of the Interior.
Prepared by: U.S. General Accounting Office.

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some regional employment benefits. The SID did not quantify the social costs due to the difficulty of estimating the dollar value of possible environmental damage and socioeconomic impacts. However, it recognized that there was some risk to the environment but such damage would be temporary. The SID also cited the Offshore Oil Pollution Compensation Fund, the Fishermen's Contingency Fund, and other funds which are available to compensate claimants for adverse environmental effects resulting from oil exploration and development.

MMS DELAYS SALE 82

(Dec. 1983) On December 9, 1983, MMS published a notice in the Federal Register stating that Sale 82 would be delayed from February to May 1984 to allow Interior to analyze the congressional moratorium's effect on the sale. Interior later postponed the sale from May to September 1984 to allow the new Secretary of the Interior, William Clark, to familiarize himself with the Sale 82 issues.

SECRETARY CLARK EMPHASIZES BETTER FOCUS ON INDUSTRY INTEREST AND EARLY RESOLUTION OF PROBLEMS

(Jan. 1984) On January 12, 1984, in a speech to the OCS Policy Committee,[3] Secretary Clark outlined proposed changes to the presale process to increase state and public participation and to identify and resolve state, environmental, and military conflicts earlier. These included making more key decisions in the fourth month of the presale planning process which is the stage when the area of leasing interest is defined for analysis and review in a draft environmental impact statement. Through increased state and industry participation, he aimed to facilitate the early balancing of hydrocarbon potential with environmental, economic, and defense interests. Secretary Clark emphasized the oil industry's responsibility to provide earlier and more precise indications of the areas they wished to lease.

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[3]The OCS Policy Committee provides policy advice concerning the OCS program to the Secretary of the Interior, through the Director, MMS. Federal agencies, states, and the private sector are represented on the committee.

Although this revision occurred after Sale 82 was well underway, Secretary Clark's initiative resulted in additional attempts by Interior to obtain indications of industry interest in the sale. These are discussed in the following section.

MMS REEVALUATES INDUSTRY INTEREST IN SALE 82

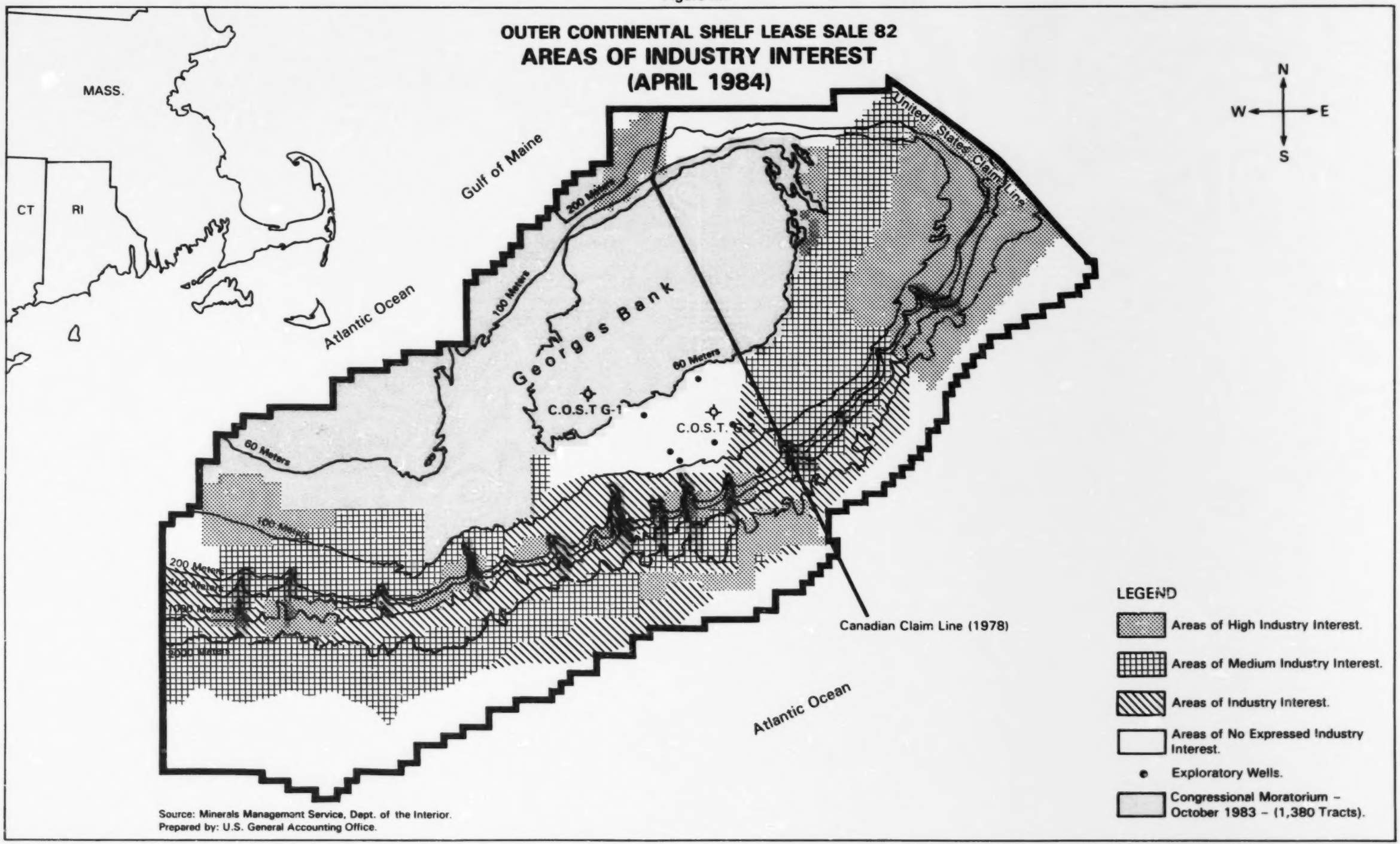
(Feb. 1984) In February 1984 MMS conducted a series of meetings with the oil industry in accordance with Secretary Clark's new policy of narrowing the scope of the sale area. MMS met with five oil companies, four of which had expressed interest in response to the Call for Information over a year before. In these meetings, representatives from the companies shared with MMS their geological and geophysical data, interpretations of the data, and the reasons for their interest in certain tracts.

(Apr. 1984) In April 1984 MMS compiled a map illustrating these companies' interest (see fig. II.7). The map showed the high and medium priority areas as well as areas of interest. Where one or more companies ranked an area as "high," MMS noted it that way. In general, the map reflected the same overall pattern of interest that companies expressed at the Call for Information stage (see fig. II.4). The map showed that the companies maintained an interest in tracts lying in waters about 200 to 400 meters deep, and the Canadian border dispute area. The major difference between this map and the earlier map was the exclusion of all tracts deferred by the congressional moratorium.

MASSACHUSETTS REQUESTS THAT TRACTS IN WATERS 400 METERS OR LESS BE DELETED

(Apr. 1984) On April 24, 1984, in a letter to the Director of MMS, Massachusetts requested that Interior delete all tracts in waters 400 meters or less in order to protect fishery resources in the Georges Bank area. Massachusetts maintained that the area inside 200 meters contained species such as sea scallops, cod, haddock, and flounder and that the area in water depths between 200 and 400 meters supported the American lobster. Massachusetts' primary concern was the threat of damage to these habitats from drilling discharges or oil spills. MMS, however, stated that its environmental studies found no evidence to suggest that drilling discharges would damage commercial

Figure II.7



Source: Minerals Management Service, Dept. of the Interior.
Prepared by: U.S. General Accounting Office.

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fisheries. A Massachusetts official told us that despite any proposed mitigating measures there was no acceptable risk for oil exploration and development.

PROPOSED NOTICE OF SALE (May 1984)

PROPOSED NOTICE OF SALE DELETED CERTAIN TRACTS AND INCLUDED STIPULATIONS TO ACCOMMODATE STATE CONCERNS

The PNOS for Sale 82 was issued on May 14, 1984, informing affected states and the public of the proposed terms and conditions of the lease sale. The PNOS included certain deletions designed to address concerns raised by the Department of Defense and affected states. These deletions included: (1) 151 tracts located along submerged transit lanes used by the U.S. Navy and (2) 327 tracts of lesser industry interest with potential for resource or use conflicts. (The orange shaded areas in figure II.8 illustrate the deletions made at the proposed notice of sale.) It also included provisions that states and other federal agencies requested to mitigate potential damage from oil and gas exploration and development. Provisions included measures to protect biological resources, disposal of drilling discharges, and lessee presentation of a fisheries training program to oil and gas workers.

In issuing the PNOS, Interior did not specifically consider Massachusetts' April 1984 request to delete tracts in waters 400 meters or less because Massachusetts submitted its request after MMS had issued the PNOS decision memorandum. This memorandum is used by the Assistant Secretary for Land and Minerals Management to determine which (if any) tracts should be offered for lease and under what terms and conditions. Issued April 16, 1984, this decision memorandum summarized and explained the options available for holding the sale.

We found that the alternatives and options in this memorandum as well as those analyzed in the EIS and SID considered environmental protection, including impacts on fishery resources. In general, the EIS and SID concluded that potential adverse effects on fisheries from a major oil spill in the proposed lease offering area would be temporary with eventual recovery of the resources as a whole. In addition, the effects of drilling muds on fisheries would be minimal since the

materials would be rapidly diluted and dispersed. The options presented to the Assistant Secretary included mitigating measures and deletion alternatives ranging from offering all available tracts to cancelling the sale. According to Interior, these options were designed to provide a decision which reasonably balanced orderly oil and gas development, environmental protection, and competing uses of the OCS.

The PNOS also included tracts located in the U.S./Canadian boundary dispute area. However, on advice of the Department of State, Interior planned on separating Sale 82 into two parts if the boundary was not settled by time the NOS was issued.

The total area for Sale 82 at the PNOS stage included 2,469 tracts or about 14 million acres (about one-quarter of the initial planning area).

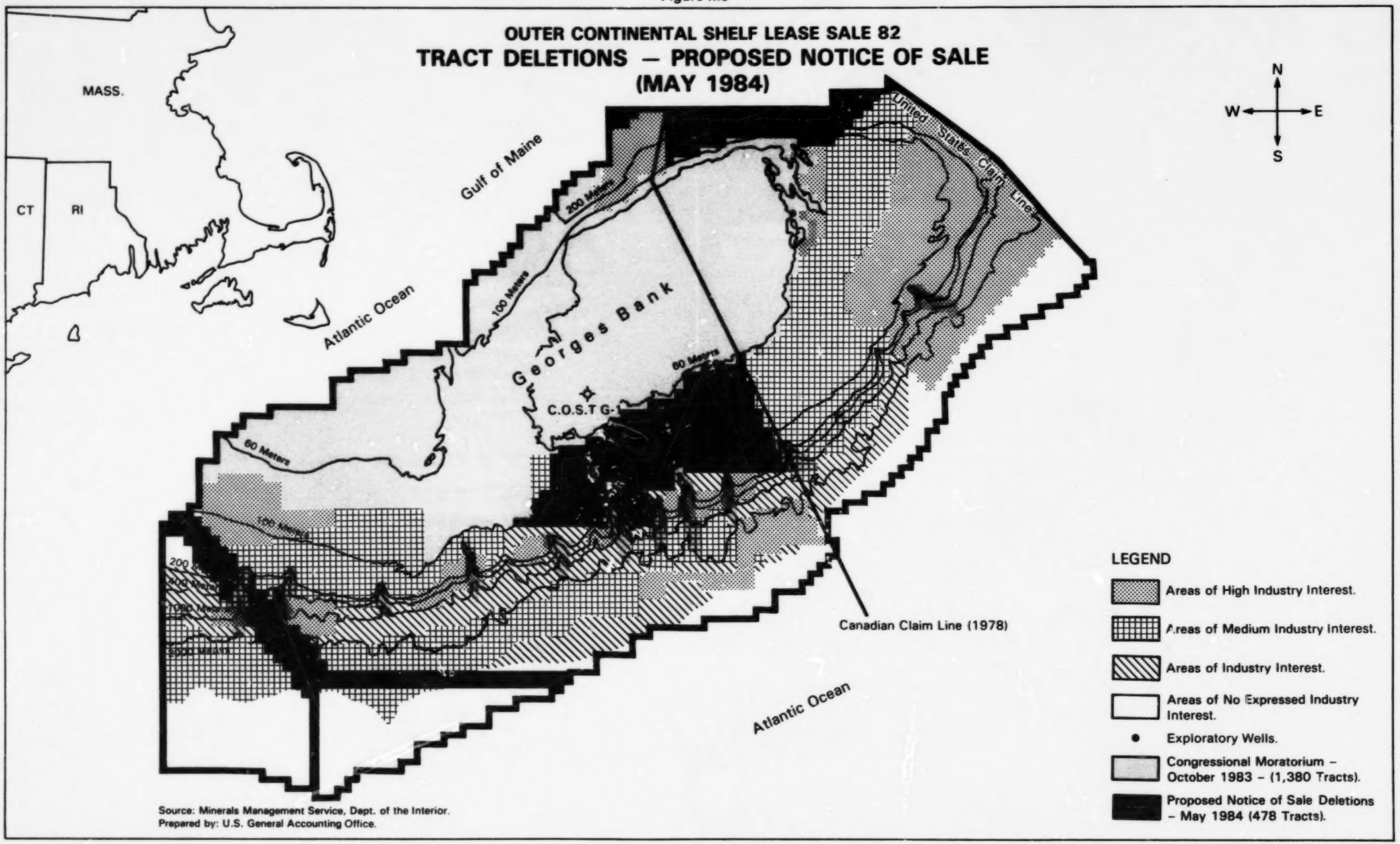
GOVERNORS' COMMENTS ON THE PROPOSED NOTICE OF SALE EXPRESS CONCERNS OVER FISHERIES RESOURCES

(June - July 1984)

In commenting on the PNOS regarding its size, timing, and location, the Governors of Maine, Massachusetts, Rhode Island, New Hampshire, Connecticut, and New Jersey wrote to Interior expressing concern about protecting scallop and other fishery resources. Four states (Maine, New Hampshire, New Jersey, and Massachusetts) requested that tracts in the northeast area of the Georges Bank be deleted to protect fishery resources. The Governors of Maine and Massachusetts maintained that there was questionable economic value in drilling for oil or gas in this area, but the potential existed for adverse impacts on one of the most important fisheries in the North Atlantic. Maine suggested that Interior delete tracts containing scallop beds until research indicated that drilling muds had no harmful effects.

Massachusetts maintained its position that all tracts in waters 400 meters or less should be deleted because these tracts had particular significance to the preservation of fisheries and supporting ecosystems. The state claimed that the potential benefits of conducting oil and gas activities on these tracts could not outweigh the risks. Massachusetts commented that the hydrocarbon resources within waters 400 meters or less were limited; there was a low probability of

Figure II.8



Source: Minerals Management Service, Dept. of the Interior.
Prepared by: U.S. General Accounting Office.

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finding commercially exploitable oil and gas; and the area lacked promising geologic formations, which would indicate areas of hydrocarbon potential.

INTERIOR CONSIDERED ENVIRONMENTAL FACTORS IN DELETING ADDITIONAL TRACTS FROM SALE 82

(Aug. 1984) The 1978 amendments to the OCS Lands Act require the Secretary of the Interior to write to the governors of the affected states explaining his reasons for accepting or rejecting their recommendations on the PNOS. On August 22, 1984, the Secretary wrote to the governors of the affected states explaining the rationale for adopting or rejecting their recommendations on the size, timing, and location of Sale 82.

In recognizing state concerns about fishery resources, Interior deleted 221 tracts in the northeast area of the Georges Bank--12 tracts were deleted from Part I, and 209 from Part II of the sale. In addition, it partially adopted Massachusetts' recommendation by deleting 293 tracts in water depths of 400 meters or less. Interior's rationale for not deferring all tracts of 400 meters or less was based on the following: (1) the extremely low risk to fishery resources from oil or gas activity, (2) existing or planned measures to protect fishery resources, (3) the excellent environmental record of the OCS program, (4) Massachusetts' previous concurrence with exploration plans submitted in Sale 42 leases which proposed drilling of up to 176 wells in water depths of less than 200 meters, and (5) the high level of industry interest within water depths of 400 meters or less.

MMS DETERMINES SUPPLEMENTAL EIS NOT WARRANTED

(Aug. 1984) On August 24, 1984, MMS published an Environmental Assessment on the potential effects of Sale 82. This assessment compared the potential impacts of the Proposed Notice of Sale with the FEIS. MMS concluded that no additional significant impacts would occur from the proposed sale which had not already been analyzed. As a result MMS determined that a supplemental impact statement was not required.

Changes in the Sale 82 offering area from the final EIS included the deferral of over 1,800 tracts resulting from low interest/high conflict areas, the Department of Defense comments, and the

congressional moratorium. MMS analyzed new information from the Environmental Assessment and its Environmental Studies Program which examines the potential impacts of offshore development on air quality, marine and coastal environments, the human environment, and other special concerns. The former included an alternative to consider the impacts of Massachusetts' recommendation to delete all tracts in waters 400 meters or less and discussed the effects of deleting tracts within the area disputed by the United States and Canada.

FINAL NOTICE OF SALE (Aug. 1984)

INTERIOR INCLUDES 1,138 TRACTS FOR SALE 82

On August 27, 1984, Interior issued the final NOS for Sale 82. The Notice defined the final terms and conditions of the sale as well as the area to be offered for lease. The blue shaded areas in fig. II.9 illustrate the 521 additional tracts deleted by the final NOS. (This included the 293 tracts of less than high industry interest in waters 400 meters or less, 221 tracts in the northeast area of the Georges Bank, and 7 tracts which MMS had intended to delete earlier.) MMS also deferred 32 tracts with high industry interest to Part II of the sale while awaiting a Coast Guard decision on whether to permit leasing in this area. These tracts were in a ship approach to New York Harbor. However, Part I of the sale included 149 tracts in water depths of 400 meters or less. Interior included these because of high industry interest and its opinion that adequate measures could be taken to protect the environment.

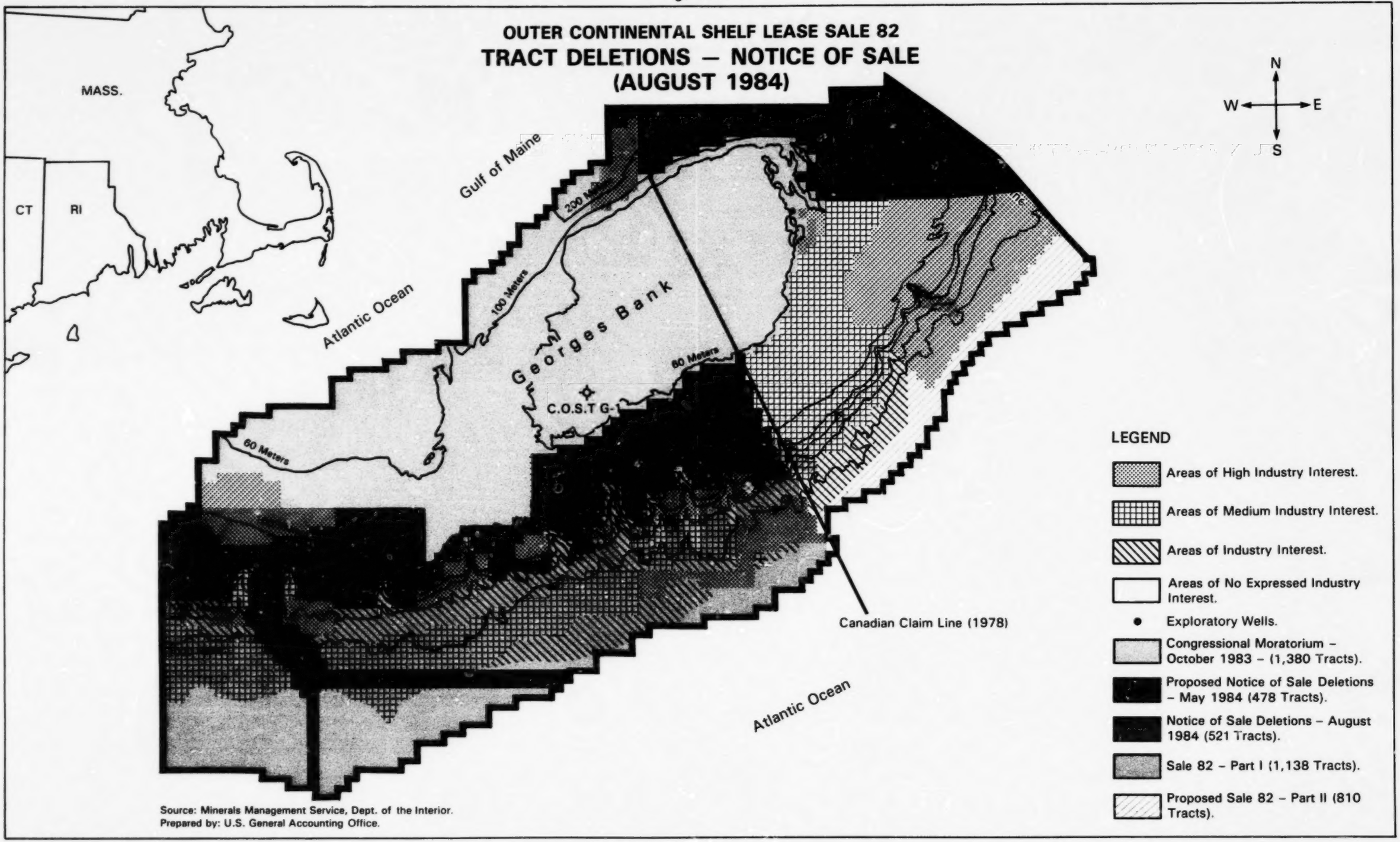
Interior also changed the lease sale stipulations and information-to-lessees to accommodate state requests. These included expanding the fisheries training program to include personnel of geophysical vessels and modifying the stipulation on protecting resources and habitats in underwater canyons. Other stipulations involved the possible use of stricter criteria and enforcement to protect high-value fisheries and marine mammals.

(Aug. - Sept. 1984)

COMPANIES SUBMIT BID QUALIFICATIONS

Sixteen companies submitted their bid qualifications (required certifications and other information) to MMS between August 29 and September 18, 1984.

Figure II.9



Source: Minerals Management Service, Dept. of the Interior.
Prepared by: U.S. General Accounting Office.

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Although there is no specified time frame for submitting qualifications, Interior requires that qualifications be submitted by the bid submission deadline. To qualify, a company submits documents such as (1) a certified statement that it is incorporated to do business and is authorized to hold OCS leases, (2) authorized signatures which may bind the company, and (3) information on equal employment opportunity programs. An MMS official acknowledged that 16 was not very many to qualify. For example, 43 companies qualified for Sale 42. However, this contact between Interior and the oil companies generally has little significance in predicting the outcome of a sale. Industry and Interior representatives told us that filing the necessary documents to qualify for a sale does not indicate that a company will bid. One oil company representative told us that qualifying for a sale allowed the company the flexibility of making a last-minute decision about participating in a sale.

MASSACHUSETTS FILES SUIT AGAINST INTERIOR TO STOP SALE 82

(Sept. 1984) On September 6, 1984, Massachusetts filed suit against the Secretary of the Interior seeking an injunction to stop Sale 82 based on violations of the National Environmental Policy Act, the Outer Continental Shelf Lands Act, as amended, and the Endangered Species Act. Another civil action was filed against the Secretary on September 7, 1984, by nine organizations that had an interest in protecting or conserving the environment.[4]

In general, Massachusetts claimed that Interior had violated these acts based on the following:

--The final environmental impact statement was inadequate to allow the Secretary to make a sufficiently informed decision about the lease sale and failed to analyze reasonable alternatives to the proposed sale which would minimize or eliminate harm to the Georges Bank ecosystem and fishery.

[4]These organizations were the Conservation Law Foundation of New England, Inc.; Gloucester Fishermen's Wives Association; Massachusetts Inshore Draggerman's Association; Natural Resources Defense Council; Nantucket Land Council; Greenpeace, New England; Massachusetts Audobon Society; Massachusetts Association of Conservation Commissions; and the Sierra Club.

--The Secretary pursued oil and gas leasing without properly balancing the potential for environmental damage and without giving proper consideration to Massachusetts' request to delete 149 tracts from the sale.

--The Secretary had not adequately taken into account the most recent data available on endangered species of whales, thus failing to ensure that the continued existence of whales in the lease sale area would not be jeopardized.

On September 25, 1984, the date of the bid submission deadline, the U.S. District Court, District of Massachusetts, issued a preliminary injunction to stop the sale scheduled for the following day.

SALE DATE PART I (Sept. 26 1984)

OIL COMPANIES FAIL TO BID ON PART I OF SALE 82

Although 16 companies submitted bid qualifications and five companies expressed interest in Sale 82 in late 1982 and five expressed interest in early 1984, no industry bids were submitted for any of the 1,138 tracts remaining in Part I of Sale 82. Because industry did not submit bids, the Secretary of the Interior cancelled the sale and requested that the U.S. District Judge upon reconsideration deny the motion for a preliminary injunction. The judge declined to dismiss the order since the outcome of Part II of Sale 82 was uncertain.

Representatives from the five oil companies we contacted told us they did not bid in Sale 82 because of the poor geologic prospects for oil and gas in the North Atlantic. They told us that the essential conditions for producing oil and gas such as the probability of reservoirs and proper source rocks did not appear to be present in the North Atlantic. Previous unsuccessful drillings in the Mid- and North Atlantic contributed to industry's lack of interest in Sale 82. Other factors included: (1) the location of many remaining tracts in deep waters, (2) in one company's case, a lack of available bidding partners, and (3) the high minimum bid price asked by Interior (MMS raised the minimum acceptable bid price from $25 per acre to $150 per acre for all OCS sales starting in October 1982).

One oil company told us that, in part, it decided not to bid in Sale 82 because of the tract deletions and deferrals. According to this company, it believed that the only prospects on remaining tracts were in deepwater areas that it considered too risky. Two other companies also said that the tract deletions and deferrals affected their decision not to bid in Sale 82.

INDUSTRY DECISION-MAKING PROCESS AND BIDDING STRATEGY HINDERS RELIABLE PREDICTION OF SALE OUTCOME

We believe Interior's ability to determine the degree or even existence of industry interest in Sale 82 was hindered by the oil industry's decision-making process and its desire to maintain secret bid strategies. Therefore, expressions of industry interest made at the Call for Information stage did not mean that a company would have the same degree of interest at the sale date. Although industry's initial identification of prospective areas may occur as much as 3 years before a sale, three of the five companies we contacted said that the final 6 months before a sale mark the beginning of their activities for a specific sale. Three of the companies also said that headquarters approval of the tracts on which to bid and the bid amounts may not be decided until just days or weeks before the lease sale. One exploration manager told us that chief executive officers generally wait until shortly before a sale before making a decision in order to get the maximum amount of information available about a sale area.

The availability of capital may also affect a company's bid decision. One oil company representative told us that if his company expended funds on earlier lease sales, it may not have funds available for lease sales held late in the year. An official of another company told us that this interrelationship between sales was one reason why oil companies may be reluctant to divulge their bidding intentions to MMS. This official explained that if a company leases many tracts in a particular sale, it is unlikely that it will have the funds to bid heavily in a later sale. Therefore, he concluded, a company can determine its competitors' limitations on bidding in a later sale. Another oil company representative told us that his company is unwilling to share its bid intentions and specific tracts of interest with MMS

because it was concerned that Interior would increase its minimum acceptable bid for these tracts.

INTERNATIONAL COURT OF JUSTICE DECISION AWARDS CANADA SIGNIFICANT AMOUNT OF PART II OFFERING AREA

(Oct. 1984) On October 12, 1984, the International Court of Justice ruled on the final boundary between the United States and Canada. According to Interior, 374 full and partial tracts (about 48 percent of the contested area) were awarded to Canada. This, according to Interior, contained most of the geologically prospective areas of Sale 82, Part II (see fig. II.10).

MMS CONSULTS WITH INDUSTRY TO DETERMINE INTEREST IN PART II OF SALE 82

(Nov. 1984) Before conducting Part II of the sale, MMS officials contacted 15 companies in an attempt to gauge the companies' level of interest. An MMS official told us that only one company expressed any interest in the Part II sale area. A company president told us that his company declined to consider participating in Part II because it wanted to wait before bidding on any more North Atlantic tracts. He said that dry holes drilled on leases from Sale 42 had made his company more conservative in its exploration and drilling approach in the North Atlantic.

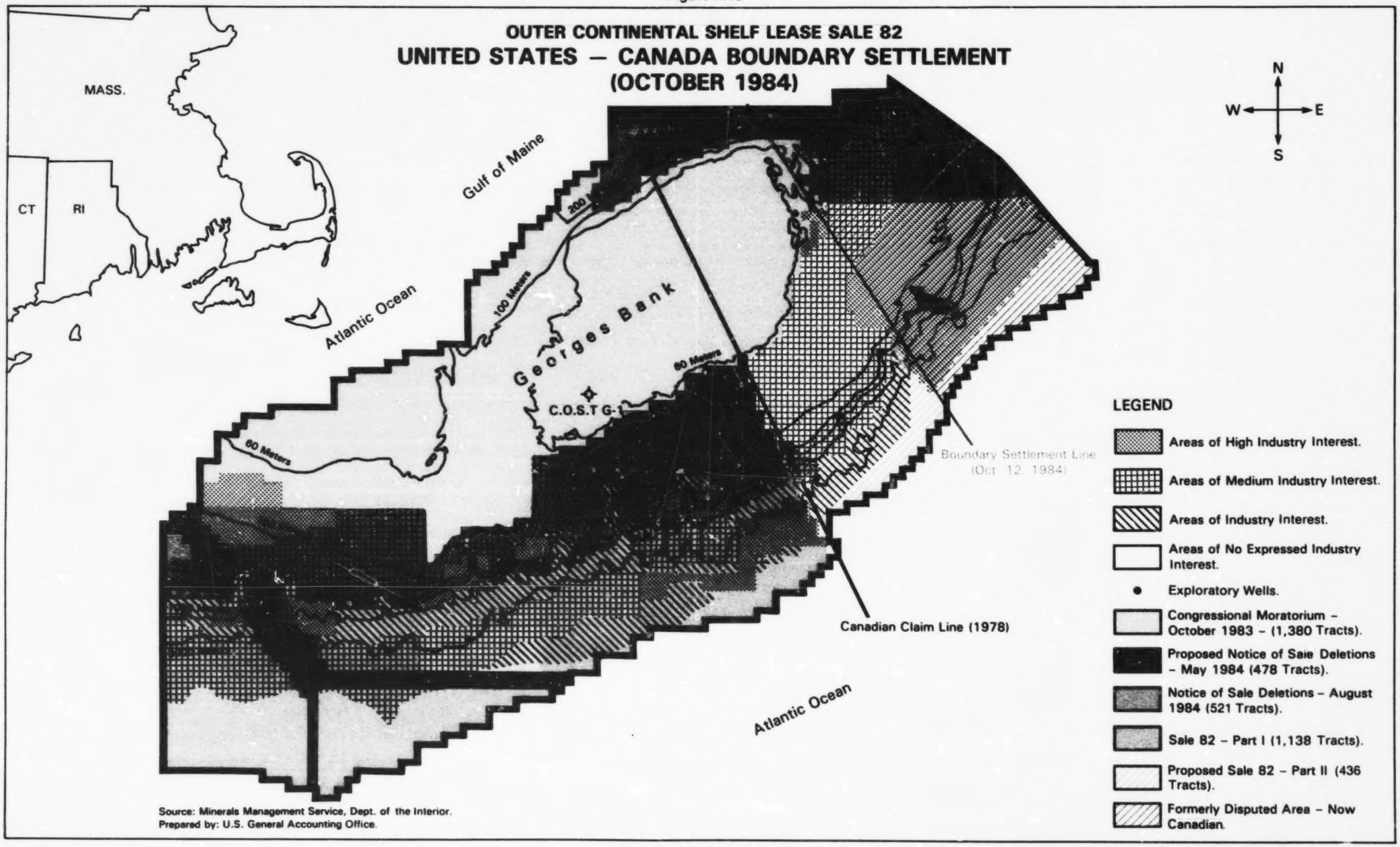
INTERIOR CANCELS PART II OF SALE 82

(Dec. 1984) Based on industry's lack of interest and the International Court of Justice decision to award most of the geologically prospective areas to Canada, Interior cancelled Part II of lease Sale 82 on December 21, 1984.

ACTIONS AGAINST SALE 82 DISMISSED

(Mar. 1985) On March 5, 1985, the U.S. District Court, District of Massachusetts, determined that the actions to stop Sale 82 were moot because of the ruling by the International Court of Justice and the lack of industry bids. Therefore, further action against the sale was not warranted.

Figure II.10



Source: Minerals Management Service, Dept. of the Interior.
Prepared by: U.S. General Accounting Office.

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OBJECTIVES, SCOPE, AND METHODOLOGY

In a September 28, 1984, letter, the Chairman, Subcommittee on Oceanography, House Committee on Merchant Marine and Fisheries, raised concerns about the conduct and results of OCS oil and gas lease Sale 82. Specifically, the Chairman asked us to address

--how the oil and gas industry informed the Department of the Interior of the areas it wished to lease and if Interior misread this information,

--what factors led the Secretary of the Interior to offer 149 environmentally sensitive tracts for lease,

--what factors caused industry to lose interest in the sale after 16 companies qualified to bid,

--how much of the taxpayers' monies were spent in preparing for the sale, and

--the implications of the Sale 82 experience for the area-wide leasing program.

To respond to the Chairman's request, we focused our efforts on determining: (1) if Sale 82 adhered to established lease procedures, (2) how industry interest was solicited and considered in sale decision-making, (3) how state concerns were considered and why 149 tracts Massachusetts requested be deleted from the sale were included, and (4) why industry did not bid on Sale 82 tracts. As agreed with the Chairman's office we did not pursue the issue of Sale 82 costs. It was agreed that the presentation of cost estimates could be misleading since expenditures for such items as environmental studies benefit multiple sales. Further, Interior does not maintain expenditures in such a way that they can be attributed to a specific sale. In a subsequent discussion with the Chairman's office, it was agreed that we would not make conclusions about the implications of Sale 82 for future area-wide sales. Our discussions with oil companies, however, did allow us to make some limited observations about the implications of not receiving bids in Sale 82.

Our review was primarily limited to Sale 82. However, to facilitate our understanding of this sale, background information was obtained on both Sale 42 and Sale 52 previously scheduled for the North Atlantic. This information included the size and location of the sale offerings, the number of tracts leased and amount of revenues received (Sale 42), and the nature of the litigation brought against these sales.

To determine if Sale 82 adhered to established lease procedures and evaluate how state concerns were considered in sale decision-making, we interviewed Interior officials responsible for

conducting the sale and preparing the environmental analyses and reviewed pertinent sale documents. We reviewed the draft and final environmental impact statements, the proposed and final notices of sale, and decision-making memorandums related to tract deletions and lease stipulations. In addition, we obtained and reviewed the Outer Continental Shelf Lands Act Amendments of 1978; letters to governors explaining the size, timing, and location of the sale; and Interior's legal brief filed in response to Massachusetts' lawsuit.

To determine how industry interest was solicited, what procedures industry follows prior to bidding, and why industry lost interest in the sale, we contacted five companies involved with the sale--Shell Offshore, Texaco, Chevron, Amoco, and Conoco. MMS identified these companies as having either nominated tracts in response to the Call for Information or being active participants in determining industry interest in Sale 82 during the presale process. To discuss the conduct of the sale and state concerns, we met with officials of the following states: Maine, Massachusetts, New Hampshire, and Rhode Island. These states were selected due to their proximity to the sale area and because of Massachusetts' involvement in Sale 82 litigation.

At each of the companies and states, we interviewed officials responsible for OCS lease sale evaluations including, in some cases, geologists and biologists knowledgeable about North Atlantic geologic potential or environmental hazards. The industry officials we interviewed were responsible for conducting the geological and economic analyses and for making recommendations to corporate management about whether to bid. The state officials we contacted were responsible for evaluating sale documents and providing comments to MMS about state concerns. We discussed Massachusetts' lawsuit with the Chief of the Environmental Law Section in the Massachusetts Attorney General's Office.

To determine why 149 disputed tracts were retained in the sale, we met with Interior officials to determine how Interior balances state concerns with the national interest and what factors are considered in performing this balancing. We reviewed sale decision memorandums, the SID, and the Section 19 letters to identify what specific information was considered in deciding to retain or delete tracts from the sale offering. We also met with Massachusetts officials to identify the nature of their concern and why they were dissatisfied with the resolution of their request to delete those tracts.

Our review was performed between March 1985 and May 1985. It was conducted in accordance with generally accepted government auditing standards. Agency comments were obtained on September 11, 1985 (see app. V) and are incorporated where appropriate.

APPENDIX IV

NINETY-EIGHTH CONGRESS

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GEORGE J. MANNINA, JR.

U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
Room 1334, Longworth House Office Building
Washington, D.C. 20515

September 28, 1984

Honorable Charles A. Bowsher
Comptroller General of the United States
General Accounting Office
441 G Street NW
Washington, DC 20548

Dear Mr. Bowsher:

On September 25th, the Department of the Interior cancelled Outer Continental Shelf oil and gas lease sale No. 82 after no industry bids were received on any of the 989 tracts up for sale. Interior's cancellation came after Federal District Court Judge David Mazzone enjoined the sale in response to a suit alleging that the Department had not adequately considered environmental concerns.

This embarrassing episode comes only nine months after Secretary of the Interior Clark in a much publicized speech announced major changes in the Department's leasing process. These changes were allegedly designed to insure that only tracts that were "true priorities" of the industry would be subjected to the leasing process and to more satisfactorily resolve environmental conflicts. Clearly this revised process failed miserably in the case of sale no. 82.

As Chairman of the House Subcommittee on Oceanography, I respectfully request that the General Accounting Office undertake an investigation of the Department of the Interior's activities surrounding this oil and gas lease sale, how and why the process failed, how much of the taxpayers' monies were wasted preparing for the sale, and how the process can be modified to assure that such a regrettable circumstance does not reoccur.

Specifically, I believe the following questions need to be addressed:

-On January 12, 1984 Secretary of the Interior Clark announced changes in OCS leasing procedures to facilitate early balancing of oil and gas potential and environmental concerns. He went on to say that the oil and gas industry would be "expected to tell us more precisely and at the beginning of the leasing process, where they wish to lease." Did industry inform Interior of the areas they wished to lease? Did Interior misread industry's interest?

-What factors led Secretary of the Interior Clark, just one month before the scheduled sale, to find that the leasing of the 149 environmentally sensitive tracts was justified because the potential for oil and gas discovery outweighed the potential threat to the environment?

-Why would 16 companies qualify themselves as bidders and industry nominate specific tracts and then not enter a single bid? Since no additional drilling occurred between the nomination of tracts and the acceptance of bids, what factors made industry lose interest?

-What are the implications of this experience for the overall effectiveness of the Administration's area-wide leasing program? Does the failure of the Department of the Interior to adequately target areas of industry interest undercut competition for offshore oil and gas and prevent the taxpayer from receiving a fair return for their resources?

The Oceanography Subcommittee staff would be pleased to discuss these and other pertinent questions with you and your able staff. Please contact Anthony Mazzaschi (226-3513) of the Subcommittee staff if you wish any assistance in the undertaking of this investigation.

Best wishes,

Sincerely,

Norm D'Amours

Norman E. D'Amours, Chairman
Subcommittee on Oceanography

ADVANCE COMMENTS FROM THE DEPARTMENT OF THE INTERIOR

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

United States Department of the Interior

MINERALS MANAGEMENT SERVICE
WASHINGTON, DC 20240

In Reply Refer To:
LMS-5-0651/ES15286
Mail Stop 622

SEP 10 1985

Mr. J. Dexter Peach
Director, Resources, Community and
Economic Development Division
General Accounting Office
Washington, D.C. 20548

Dear Mr. Peach:

We appreciate the opportunity to review and provide comments on your draft report entitled "Outer Continental Lease Sale 82 -- What Happened?" We found the report to be generally accurate, objective, well-prepared, and well-organized. The rationale for a lack of bidding cited in the abstract and in the text of the report oversimplifies the reasons presented on pages 6, 7, and 8 of the report. Reasons given include the extent of the previous deletions and too high a minimum bid level for the tracts. These should be reflected in the conclusions. Additionally, the map data presented on industry interest and the fact that companies were considering bidding until a few days or weeks before the sale indicate that industry clearly believes there is geological potential in the area. The statements to the contrary in the abstract conclusions and on page 6 should be modified to reflect that potential.

Now on pp. 4 5, and 6.

Now on p. 4.

Our detailed comments, which appear as marginal notes on the document, are presented as Enclosure 1. These comments, for the most part, make minor factual corrections and updates to the accounts of leasing in the North Atlantic and to the description of the offshore leasing process.

See comment 1.

Our comments on page 23 of your draft report concern information which we consider to be administratively confidential. Comments regarding the maps contained in your draft report were previously given to your staff and are summarized in Enclosure 2.

Now in app. II, p. 14.

As your staff is aware, some of the steps in the presale leasing process were changed while Sale 82 was in progress. Enclosure 3 contains the "Steps in Offshore Leasing" which correspond to our current procedures. You may wish to substitute the current procedures for your Appendix I.

See comment 1.

Enclosure 4 contains a detailed chronology of our consultations with States and Congress. Additionally, we have enclosed copies of our letters to the Governors of affected States requesting comments on the size, timing, or

See comment 1.

APPENDIX IV

location of Sale 82, the Governors' responses to these "Section 19" letters, and our replies to the Governors' concerns. You may wish to make these a part of your final report.

If you have any questions regarding this material, please call Ron Miller at 343-3980.

Sincerely,

Director

Enclosures (4)

The following are GAO's comments on the Department of the Interior's letter dated September 10, 1985.

GAO COMMENTS 1. Discussed in agency comment section, pp. 8 and 9.

(140202)